UNITED
NATIONS

E

Economic and Social
Council

Distr
GENERAL

E/CN.4/2000/NGO/51
3 February 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 5 of the provisional agenda

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement submitted by the International League for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 January 2000]

1. The year 1999 saw the issue of the right to self-determination reach the headlines of virtually every newspaper in the world through the events in Kosovo and East Timor. In Kosovo, the North Atlantic Treaty Organization (NATO) intervened to prevent the Government of Yugoslavia from denying, through systematic ethnic cleansing, the right of the Kosovars to self-determination. In East Timor, the United Nations intervened to prevent militants from using violence to undermine the results of a peaceful referendum by the East Timorese exercising their right of self-determination, which the Government of Indonesia finally acknowledged after more than 20 years of colonial occupation.

2. In both cases, the failure to recognize a people's right to self-determination led to violent conflict. In both cases, the international community finally acted upon the realization that only through the exercise of the right of self-determination can long-term solutions be found to violent ethnic conflict and systematic human rights abuses. Tibet is another example where the international community's attention to the Tibetan people's right to self-determination can bring an end to decades of political repression, cultural destruction and other human rights abuses against the Tibetan people. It can also prevent the possibility that years of ignoring the Tibetan people's non-violent campaign to win respect for their fundamental rights will create a level of frustration sufficient to trigger violence in Tibet.

3. Several international treaties and declarations, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Vienna Declaration and Programme of Action, acknowledge the legal right of all peoples to "freely determine their political status and freely pursue their economic, social and cultural development". The United Nations General Assembly has twice recognized the Tibetan people's right to self-determination in its resolutions 1723 (XVI) (1961) and 2079 (XX) (1965). The Tibetans, with their distinct language, history and culture, are indisputably a "people" to whom the right of self-determination attaches.

4. The objection that the right of self-determination must give way to China's claim of territorial integrity is misplaced for several reasons. First, the right of self-determination is the right to a choice of political status. It does not necessarily mean independence. Thus, the Tibetan people could reasonably decide to evolve an arrangement whereby the Tibetan people would obtain genuine self-rule within the boundaries of the Chinese State, preserving China's territorial integrity while at the same time giving the Tibetan people the opportunity in fact to determine their economic, social and cultural development. Indeed, His Holiness the Dalai Lama has proposed just such an arrangement. Given the Tibetan people's legal right to self-determination, the failure of the international community to support actively the exercise of that right is both legally insupportable and morally unconscionable.

5. Second, while the right of self-determination is not absolute, neither is the right of territorial integrity. The Vienna Declaration and Programme of Action, adopting language from the United Nations Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations, acknowledges that the right of self-determination should not undermine "the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of

any kind". As the International Commission of Jurists, among others, have pointed out, this language imposes a requirement of legitimacy on a State. A State that oppresses, destroys or exploits a people, and fails to promote and protect the fundamental human rights of the people without discrimination, ceases to be legitimate as to that people and cannot claim a right of territorial integrity as against the people's claim of self-determination.

6. The violation of human rights in Tibet by the Government of China started with the entry of armed troops into Tibet in 1949 and continues to the present. The abuse spans a broad spectrum of human rights which the Tibetans are entitled to enjoy, including such practices as suppression of religion (such as the interference in the selection of the eleventh Panchen Lama, the banning of photographs of the Dalai Lama and periodic "re-education" campaigns in the monasteries and nunneries), population transfer (through the coerced transfer of cadres and encouragement of Chinese resettlement through subsidies, incentives and infrastructure projects), denial of reproductive rights (forced and coerced abortions and sterilizations), discrimination in employment, education and housing, suppression of the Tibetan language, destruction of the environment (through excessive logging, overgrazing and farming, and careless mining practices), enforced disappearances and incommunicado detention (the most notable example of which is the 10-year-old eleventh Panchen Lama, Gedhun Choekyi Nyima), denial of freedom of expression and wrongful arrest (through the detention of any Tibetan expressing any objection to Chinese rule or Chinese policies), torture (routinely used in detention centres and prisons against Tibetan political prisoners), and arbitrary execution (the killing by torture and abuse of Tibetan political prisoners, which is increasing in frequency).

7. Increasingly, the Government of China has acknowledged official policies which have had the purpose and/or the effect of denying Tibetans their fundamental human rights, for example in the areas of suppression of religion, population transfer (e.g. the World Bank-funded China Western Poverty Reduction Project), childbirth restrictions, discrimination in education, and denial of freedom of expression. The persistent denial of human rights in Tibet, then, is more than a case of mere governmental indifference to one of its "minority" populations. The human rights violations in Tibet evidence a governmental policy to deprive the Tibetan people of any ability to express a political identity and to eviscerate the social, cultural and economic ties which have bound the Tibetans together historically as a people.

8. The Government of China has therefore ceased to be the legitimate Government for the Tibetan people and cannot claim a right of territorial integrity as against the Tibetans' right to self-determination. The opportunity exists now, however, to resolve peacefully both the Tibetan claim to self-determination and the Chinese claim to territorial integrity. Within the framework of the Tibetans' non-violent campaign to secure protection for their fundamental human rights under the leadership of His Holiness the Dalai Lama, the international community can act now to avoid the kind of violent conflict that has torn apart other regions of the world.

9. Tibet can be a model for the kind of non-violent conflict resolution which has eluded the international community in so many other places, largely because the international community failed to act with foresight before it was too late. We therefore urge the Commission to take the first step towards peaceful resolution of the terrible human rights situation in Tibet by resolving to support the Tibetans' fundamental human rights, specifically their right to self-determination.